# All Charged Up:

# Solar Panels and Electric Charging Stations

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# What's the Buzz?

- Solar Panels and Community Associations

A. Laws Applicable to Community Associations
   a. Issues with Laws
   b. Positives with Laws
   c. Application of Laws
   d. Inability to meet requirements

B. Potential Changes in the Laws
   a. Added requirements
   b. Added potential liability
   c. Added costs
   d. Insurance obligations and costs

C. Practical Effects of Solar Panels
   a. Rules Covenant changes
   b. Use,
   c. Aesthetics,
   d. Effect on buildings,
   e. Liabilities,
   f. Compliance

D. Responsibilities of Association Boards

# What's the Buzz?

- Electric Vehicles and Charging Status

A. Laws Applicable to Community Associations
   a. Issues with Laws
   b. Positives with Laws
   c. Application of Laws
   d. Inability to meet requirements

B. Future Laws Applicable and Evolving Laws
   a. Added requirements
   b. Added potential liability
   c. Added costs
   d. Insurance obligations and costs

C. Practical Effects
   - a. Rules Covenant changes
   - b. Use,
   - c. Aesthetics,
   - d. Effect on buildings,
   - e. Liabilities
   - f. Compliance

D. Responsibilities of Association Boards

# Solar Panels

## HOMEOWNERS' ENERGY POLICY STATEMENT ACT
## 765 ILCS 165/1

- Sec. 10. Definitions. In this Act:
- "Solar energy" means radiant energy received from the sun at wave lengths suitable for heat transfer, photosynthetic use, or photovoltaic use.

# Solar Panels

- "Solar collector" means:
- (1) an assembly, structure, or design, including passive elements, used for gathering, concentrating, or absorbing direct and indirect solar energy, specially designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid, or liquid or to use that energy directly; or
- (2) a mechanism that absorbs solar energy and converts it into electricity; or
- (3) a mechanism or process used for gathering solar energy through wind or thermal
- gradients; or
- (4) a component used to transfer thermal energy to a gas, solid, or liquid, or to convert it into electricity.

# Solar Panels

Sec. 15. Associations; prohibitions. Notwithstanding any provision of this Act or other provision of law, the adoption of a bylaw or exercise of any power by the governing entity of a homeowners' association, common interest community association, or condominium unit owners' association which prohibits or has the effect of prohibiting the installation of a solar energy system is expressly prohibited.

Sec. 20. Deed restrictions; covenants. No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or have the effect of prohibiting a solar energy system from being installed on a building erected on a lot or parcel covered by the deed restrictions, covenants, or binding agreements, if the building is subject to a homeowners' association, common interest community association, or condominium unit owners' association. A property owner may not be denied permission to install a solar energy system by any entity granted the power or right in any deed restriction, covenant, or similar binding agreement to approve, forbid, control, or direct alteration of property.

BUT . . .

# Solar Panels

## Changes Effective July 26, 2021

- Sec. 45. Inapplicability.
- This Act shall not apply to any building that:
- (1) is greater than 60 feet in height; or
- (2) has a shared roof and is subject to a homeowners' association, common interest community association, condominium unit owners' association.
- As used in this Section, "shared roof" means any roof that (i) serves more than one unit, including, but not limited to, a contiguous roof serving adjacent units, or (ii) is part of the common elements or common area.

# Solar Panels

So, most associations are in the clear, right?

But . . .

# Solar Panels

- HB2096 – potential exclusion to the exception
- (b) This Act applies to the portion of a shared roof owned solely by the owner of the residence beneath the roof if the owner agrees to be responsible for the maintenance of the roof under the solar panels.
- Also . . .

# Solar Panels

HB2174/SB1544 – under consideration

- Prohibit requiring owner to use certain technology (solar shingles rather than solar panels)

- Cannot condition approval on approval of adjacent owners

- May impose reasonable conditions concerning maintenance, repair and replacement so long as such conditions are same as for other non-solar projects

- Cannot impose fee above what is charged for any other applications

# Solar Panels

Belmont Association, Inc. v Farwig

North Carolina Supreme Court 2022

North Carolina law prohibits restrictions on solar collectors.

Had an exception that law did not prohibit covenants that would regulate the location or screening of collectors provided it does not have the effect of preventing reasonable use for residential property.

Also exception that did not prohibit covenants that prohibit locations on building that are visible from the ground on the façade that faces common or public access

# Solar Panels

- Considerations and Practical Effect of Solar Panels
  - Buildings
  - Costs
  - Insurance

Board Responsibilities

# Electric Vehicles &Charging Stations

Currently no laws applicable to community associations in in Illinois or Chicago.

BUT . . .

# Electric Vehicles &Charging Stations

2022- HB3125 "Electric Vehicle Charging Act"

Not passed before end of legislative session

2023 SB40 "Electric Vehicle Charging Act"

Applicability. This Act applies to newly constructed single-family homes and multi-unit residential buildings that have parking spaces and are constructed after the effective date of this Act.

Includes condo conversions

# Electric Vehicles &Charging Stations

EV-capable parking space requirement. A new single-family residence or a small multifamily residence (2-4 families in one building) shall have at least one EV-capable parking space for each residential unit that has dedicated parking, unless any subsequently adopted building code requires additional EV-capable parking spaces, EV-ready parking spaces, or installed EVSE, OR numer of spaces required by subsequent building codes.

All building permits issued 90 days after the effective date of this Act shall require a new, large multifamily residential building (5 or more families in one building) or a large multifamily residential building being renovated by a developer converting the property to an association to have 100% of its total parking spaces EV-capable.

# Electric Vehicles &Charging Stations

(a) Any covenant, restriction, or condition contained in any deed, contract, security interest, or other instrument affecting the transfer or sale of any interest in a condominium or common interest community, and any provision of a governing document that *effectively prohibits or unreasonably restricts the installation or use* of an electric vehicle charging system *within a unit owner's unit or a designated parking space*, including, but not limited to, a deeded parking space, a parking space in a unit owner's exclusive use common area, or a parking space that is specifically designated for use by a particular unit owner, or is in conflict with this Section, is void and unenforceable.

# Electric Vehicles &Charging Stations

(b) This Section does not apply to provisions that impose a reasonable restriction on an electric vehicle charging system. Any electric vehicle charging system installed by a unit owner pursuant to this Section is the property of that unit owner and in no case will be deemed a part of the common elements or common area.

# Electric Vehicles &Charging Stations

## Applications for Approval

(d) If approval is required for the installation or use of an electric vehicle charging system, the association shall process and approve the application in the same manner as an application for approval of an alteration, modification, or improvement to common elements or common areas or an architectural modification to the property, and the association shall not unreasonably delay the approval or denial of the application. The approval or denial of an application shall be in writing. If an application is not denied in writing within 60 days from the date of the receipt of the application, the application shall be deemed approved unless the delay is the result of a reasonable request for additional information.

# Electric Vehicles &Charging Stations

## Common Elements & Common Area

(e) If the electric vehicle charging system is to be placed in a common area or exclusive use common area, as designated by the condominium or common interest community association, the following applies:

The unit owner shall first obtain prior written approval from the association to install the electric vehicle charging system and the association shall approve the installation if the unit owner agrees, in writing, to:

- comply with the association's architectural standards or other reasonable conditions and restrictions for the installation of the EV charging system;

# Electric Vehicles &Charging Stations

Common Elements & Common Area

- engage a licensed and insured electrical contractor to install

- the electrical contractor shall name the association, its officers, directors, and agents as additional insured and shall provide a certificate of insurance

- within 14 days after approval, provide a certificate of insurance that names the association, its officers, directors, and agents as an additional insured party under the unit owner's insurance policy

# Electric Vehicles &Charging Stations

- Common Elements & Common Area

  - pay for both the costs associated with the installation of and the electricity usage associated

  - be responsible for damage to the common elements or common areas or other units resulting from the installation, use, and removal

# Electric Vehicles &Charging Stations

- Unit Owner & Successive Unit Owners Responsible for:

Costs of damage to EV system, common elements, etc.

Costs of maintenance, repair, replacement of system, and when removed to restore common element or common area

Cost of electricity (based on submeter or reasonable estimation)

Disclosing the system to purchaser of the unit

Maintain liability insurance policy

# Electric Vehicles &Charging Stations

- (g) An association may install an electric vehicle charging system in the common area for the use of all unit owners and members of the association. The association shall develop appropriate terms of use for the electric vehicle charging system.

# Electric Vehicles &Charging Stations

Chicago - "Electric Vehicle Right to Charge Ordinance"
PROPOSED in July, 2022.

Would allow unit owners the right, under certain conditions, to connect to a community association's garage common electrical system to install an electric vehicle (EV) charging station to serve their "exclusive" parking space.

Conditions allowed:

- "reasonable restrictions" (not defined)
- Approval process (within 60 days)
- Licensed contractor
- Require contractor insurance, owner liability insurance
- Owner to pay costs

# Electric Vehicles &Charging Stations

- Civil Penalty:

- An association that willfully violates shall be liable to the unit owner for actual damages and shall pay a civil penalty to the unit owner not to exceeed $500. Plus attorneys' fees to prevailing party if the unit owner files a lawsuit.

# Electric Vehicles &Charging Stations

- Considerations and Practical Effect of Solar Panels
  - Buildings
  - Costs
  - Insurance

Board Responsibilities

# Electric Vehicles &Charging Stations

# PROPERTY
# (765 ILCS 165/) Homeowners' Energy Policy Statement Act.

(765 ILCS 165/1)

Sec. 1. Short title. This Act may be cited as the Homeowners' Energy Policy Statement Act.

(Source: P.A. 96-1436, eff. 1-1-11; 97-105, eff. 1-1-12.)

(765 ILCS 165/5)

Sec. 5. Legislative intent. The legislative intent in enacting this Act is to protect the public health, safety, and welfare by encouraging the development and use of solar energy systems in order to conserve and protect the value of land, buildings, and resources by preventing the adoption of measures which will have the ultimate effect, however unintended, of preventing the use of solar energy systems on any home that is subject to a homeowners' association, common interest community association, or condominium unit owners' association.

(Source: P.A. 96-1436, eff. 1-1-11.)

(765 ILCS 165/10)

Sec. 10. Definitions. In this Act:

"Solar energy" means radiant energy received from the sun at wave lengths suitable for heat transfer, photosynthetic use, or photovoltaic use.

"Solar collector" means:

(1) an assembly, structure, or design, including passive elements, used for gathering, concentrating, or absorbing direct and indirect solar energy, specially designed for holding a substantial amount of useful thermal energy and to transfer that energy to a gas, solid, or liquid or to use that energy directly; or

(2) a mechanism that absorbs solar energy and converts it into electricity; or

(3) a mechanism or process used for gathering solar energy through wind or thermal gradients; or

(4) a component used to transfer thermal energy to a gas, solid, or liquid, or to convert it into electricity.

"Solar storage mechanism" means equipment or elements (such as piping and transfer mechanisms, containers, heat exchangers, batteries, or controls thereof, and gases, solids, liquids, or combinations thereof) that are utilized for storing solar energy, gathered by a solar collector, for subsequent use.

"Solar energy system" means:

(1) a complete assembly, structure, or design of solar collector, or a solar storage mechanism, which uses solar energy for generating electricity or for heating or cooling gases, solids, liquids, or other materials; and

(2) the design, materials, or elements of a system and its maintenance, operation, and labor components, and the necessary components, if any, of supplemental conventional energy systems designed or constructed to interface with a solar energy system.

(Source: P.A. 102-161, eff. 7-26-21.)

(765 ILCS 165/15)

Sec. 15. Associations; prohibitions. Notwithstanding any provision of this Act or other provision of law, the adoption of a bylaw or exercise of any power by the governing entity of a homeowners' association, common interest community association, or condominium unit owners' association which prohibits or has the effect of prohibiting the installation of a solar energy system is expressly prohibited.

(Source: P.A. 96-1436, eff. 1-1-11.)

(765 ILCS 165/20)

Sec. 20. Deed restrictions; covenants. No deed restrictions, covenants, or similar binding agreements running with the land shall prohibit or have the effect of prohibiting a solar energy system from being installed on a building erected on a lot or parcel covered by the deed restrictions, covenants, or binding agreements, if the building is subject to a homeowners' association, common interest community association, or condominium unit owners' association. A property owner may not be denied permission to install a solar energy system by any entity granted the power or right in any deed restriction, covenant, or similar binding agreement to approve, forbid, control, or direct alteration of property. However, for purposes of this Act, the entity may determine the specific configuration of the elements of a solar energy system on a given roof face, provided that it may not prohibit elements of the system from being installed on any roof face and that any such determination may not reduce the production of the solar energy system by more than 10%. For the purposes of this Section, "production" means the estimated annual electrical production of the solar energy system. Within 90 days after a homeowners' association, common interest community association, or condominium unit owners' association receives a request for a policy statement or an application from an association member, the association shall adopt an energy policy statement regarding: (i) the location, design, and architectural requirements of solar energy systems; and (ii) whether a wind energy collection, rain water collection, or composting system is allowed, and, if so, the location, design, and architectural requirements of those systems. An association shall disclose, upon request, its energy policy statement and shall include the statement in its homeowners' common interest community, or condominium unit owners' association declaration.

(Source: P.A. 102-161, eff. 7-26-21.)

(765 ILCS 165/25)

Sec. 25. Standards and requirements. A solar energy system shall meet applicable standards and requirements imposed by State and local permitting authorities.

(Source: P.A. 96-1436, eff. 1-1-11.)

(765 ILCS 165/30)

Sec. 30. Application for approval. Whenever approval is required for the installation or use of a solar energy system, the application for approval shall be processed by the appropriate approving entity of the association within 75 days of the submission of the application. However, if an application is submitted before an energy policy statement is adopted by an association, the 75-day period shall not begin to run until the date that the policy is adopted.

(Source: P.A. 102-161, eff. 7-26-21.)

(765 ILCS 165/35)

Sec. 35. Violations. Any entity, other than a public entity, that willfully violates this Act shall be liable to the applicant for actual damages occasioned thereby and for any other consequential damages. Any entity that complies with the requirements of this Act shall not be liable to any other resident or third party for such compliance.

(Source: P.A. 96-1436, eff. 1-1-11.)

(765 ILCS 165/40)

Sec. 40. Costs; attorney's fees. In any litigation arising under this Act, the prevailing party shall be entitled to costs and reasonable attorney's fees.

(Source: P.A. 96-1436, eff. 1-1-11.)

(765 ILCS 165/45)

Sec. 45. Inapplicability. This Act shall not apply to any building that:

(1) is greater than 60 feet in height; or

(2) has a shared roof and is subject to a homeowners' association, common interest community association, condominium unit owners' association.

As used in this Section, "shared roof" means any roof that (i) serves more than one unit, including, but not limited to, a contiguous roof serving adjacent units, or (ii) is part of the common elements or common area.

(Source: P.A. 102-161, eff. 7-26-21.)

# Electric Car Charging Overview

## Electric Car Charging Is Easy

Imagine never stopping at a gas station again, and instead, have an unlimited supply of fuel available at home or wherever you normally park. For many electric car drivers, this is a reality. Battery-electric cars never need gas, and for short trips, plug-in hybrids might use no gas.

Electric car charging is simple, cost-effective and convenient, particularly when you are plugged in at home—filling up your car even while you're asleep. How long it takes to charge depends on the charging equipment and the size of the car's battery and its available charging capacity.

Although electric car drivers primarily charge at home, workplace and public chargers are increasingly available in communities nationwide. Use the EV Charging Station Map (https://www.plugshare.com/) to find nearby charging.

## Level 1 Charging

Level 1 is the slowest method, but sufficient for drivers who charge overnight and travel 30-40 miles per day. All electric cars come with a cable that can be plugged into a standard wall outlet with no equipment installation required. Level 1 works well at home, work or anywhere—when you have sufficient time to charge. Level 1 charging is ideal for plug-in hybrid electric cars (/plug-in-hybrid) that have smaller batteries, but it can suffice for some battery-electric car (/battery-electric) owners as well, depending on their daily range needs and length of time typically parked and charging.

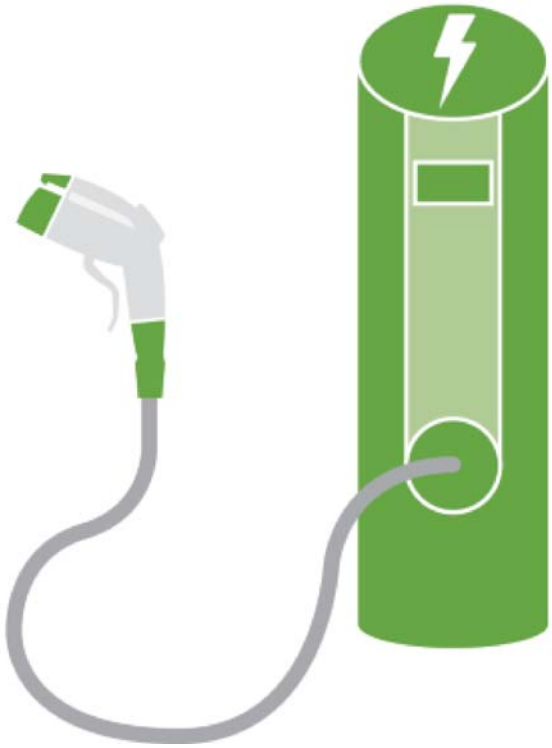
*Level 1 charging adds about 3.5 – 6.5 miles of driving range per hour of charging time*.

## Level 2 Charging

Level 2 charging is considerably faster, but requires installing a charging station, also known as electric vehicle supply equipment (EVSE). Charging station installation requires a dedicated 240-volt or 208-volt electrical circuit, similar to what is required for a clothes dryer or electric range. Level 2 is found at many public and workplace charging stations, and also in many homes. It uses the same standard connector as Level 1 charging, meaning any electric car can plug in at any Level 2 charger.

*Depending on battery type, charger configuration and circuit capacity, Level 2 charging adds about 14-35 miles of range per hour of charging time*.

## Direct Current (DC) Fast Charging



DC fast charging provides the fastest available fill-up. It requires a 480-volt connection, making DC fast charging unsuitable for home use, and not every electric car model is equipped for it. Stations offering DC fast charging are found in shopping centers and often along major travel corridors, allowing electric car drivers to charge up quickly and take longer trips. DC fast chargers come with a CHAdeMO, Combined Charging System

(Combo or CCS) or Tesla connector system. Most DC fast chargers will have both the CHAdeMO and Combo connectors. Explore electric car types and differences in our electric car overview (/electric-car-overview).

*Depending on battery type, charger configuration and circuit capacity, DC fast charging can add up to 10 miles of range per minute of charging time*.

## Electric Car Charging Costs

**Cost of Installing a Charger at Home**
If you decide to install a Level 2 charger at home, the installation costs will depend on the system you select, permitting fees in your area and your home's configuration. Incentives (/search-incentives) may be available to offset these expenses.

**Cost to Charge at Home**
Charging costs depend on your electric car's battery size and the local price of electricity. Most electric utilities offer special time-of-use (TOU) rates that greatly reduce costs by billing less for electricity used during off-peak hours. Contact your electric utility to find out more. Find out how simple home charging is for current electric car drivers (/driver-reviews).

While electricity costs vary, the average price in California is about 18 cents per kilowatt hour (kWh). At this price, charging an electric car such as the Nissan LEAF with a 40-kWh battery with a 150-mile range would cost about $7 to fully charge. Meanwhile, fueling a 25-mpg gas vehicle at a gas price of $4.30 per gallon would cost about $26 for enough gas to drive approximately 150 miles. Saving money on fuel is just one of the many benefits of driving electric (/top-reasons).


EV
ELECTRIC VEHICLE CHARGING STATION
Power Ready
Connected Charging
Remotely Controlled
#1
Fault
Reset Fault
Service
ELECTRIC VEHICLE CHARGING STATION
Using a card? Follow instructions on card reader display. Attach connector to vehicle.
Power Ready
Connected Charging
Remotely Controlled
#2
Fault
Reset Fault
Service
STOP

**Public Charging Costs**

Many people charge their electric car at public charging stations. They can be free, pay-as-you-go or subscription-based, with prices set by networks or property owners. Some automakers, such as Hyundai, Nissan and Tesla may provide complimentary public charging at certain chargers. The industry is moving toward a fee structure based on kWh used, rather than by the time it takes to charge the car.

Drivers in California may expect to pay 30 cents per kWh to charge on Level 2, and 40 cents per kWh for DC fast charging. At these rates, the same Nissan LEAF with a 150-mile range and 40-kWh battery would cost about $12 to fully charge (from empty to full) using Level 2, and $16 with DC fast charging.

Several apps and online tools will help you locate public charging, including PlugShare's (https://www.plugshare.com/) international database.

## Charging Station Rebates

**Rebates for Residential Level 2 Charging Stations**

Many California electric utility providers and air districts offer rebates to make home Level 2 charging more affordable. Find available incentives (/search-incentives) where you live.

**Rebates for Commercial Electric Car Charging Stations**

Property owners that install public commercial charging stations may be eligible for rebates. Electric car charging can attract more traffic to your business, improve tenant or employee satisfaction and retention, and generate a new revenue stream (fees for charging). Find information on rebate eligibility and funding availability (/search-incentives).

(https://ww2.arb.ca.gov/homepage)

(http://www.caclimateinvestments.ca.gov/)